

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6642 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
MALARAM R VISHNOI

Versus

STATE OF GUJARAT

-----  
Appearance:

MR IS SUPEHIA for Petitioners

MR DA BAMBHANIA for Respondents.

-----  
CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/12/97

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. D.A. Bambhania, Learned Government Solicitor for the respondents.

2. The facts appearing in the statement of facts and events indicate that the petitioners have been serving as Head Constables, Grade-I in S.R.P. Group No.10 Ukai.

They are given higher grade by order dated 7/10/1993. However, that order came to be cancelled by order dated 16/6/1994 and recovery was ordered. Once-again by order dated 2/3/1996 the petitioners were again granted higher grade scale and again by orders dated 25/4/1997 and 21/7/1997 the order dated 2/3/1996 came to be cancelled and recovery has been ordered. The petitioners have challenged the last mentioned cancellation orders and consequent recovery proposed to be effected from the salary of the petitioners inter-alia on the ground that the petitioners have not been heard before either cancelling the order dated 2/3/1996 or before passing order of recovery. The petitioners have also challenged further consequential order Annexure-I.

3. Having heard the learned Government Solicitor for the respondents one fact has clearly emerged. It is not disputed that before passing the cancellation orders and consequential orders as aforesaid the petitioners have not been heard. Thus, viewing the facts as alleged in the petition it clearly appears that there is violation of the principles of natural justice vis-a-vis the orders impugned in this petition. This petition would succeed only on this ground. The result is that the said orders shall have to be quashed and set aside. Following order is, therefore, passed :-

This petition is granted. The impugned orders dated 25/4/1997 and 21/7/1997 cancelling the order dated 2/3/1996 are hereby quashed and set aside. The aforesaid consequential orders will also stand set aside. It is obvious that if any such orders are once again required to be passed, the petitioners will have to be given an opportunity to be heard in the matter. Rule made absolute in the aforesaid terms only. No order as to cost.

\* \* \* \* \*

\*\* vrp \*\*